

DEPARTMENT OF STATE
THE LEGAL ADVISER

June 20, 1960

201
W

FE

TO: SPA - Mr. Bell
FROM: L/A - Mr. Cameron *W*
SUBJECT: Negotiation of Consular Convention with Indonesia.

The draft instruction to Djakarta attached to your memorandum of June 16, 1960, has been initialled, and is returned herewith. We will ask Mr. Hager to approve it when it has been prepared in final form and approved by everybody in FE.

Thank you for calling our attention to the erroneous reference in the Memorandum of Explanation to a consular convention with "the Philippine Islands." The stock on hand will be corrected by pen, and when it is rerun the reference will be to "the Philippines."

Attachment:

Draft Instruction.

CS/MJR

This Document must be returned
to the High Central Files

FM 611.88421/3-1330

FM 611.98421/6-1660

VVM
L:L/A:VVMekison:jal

RM/R
16
<i>W</i>

0 0 8 7 2

DECLASSIFIED
Authority NND 949629
By *lat* NARA Date 8/11/00

OFFICIAL USE ONLY*Office Memorandum* • UNITED STATES GOVERNMENT FE

TO : L/A - Mr. Cameron

DATE: June 16, 1960

FROM : FE:SPA - James D. Bell *JDB*

SUBJECT: Negotiation of Consular Convention with Indonesia

With reference to your memorandum of May 27, 1960 to Mr. Mein, this office believes it would be desirable to conclude a consular convention with Indonesia and that negotiations to that end should be begun. We have prepared for your review the attached draft instruction to the Embassy, Djakarta, proposing that if the Embassy perceives no objection, the Embassy commence negotiations.

Attachment:

Draft Instruction

This Document must be returned
to the RM/R Central Files

511.98421/6-1660 CS/MDR

RM/R
FE:SPA:RHWenzel:reg 6-16-60OFFICIAL USE ONLY

611.98421/6-1660

(RHP)

0 0 8 7 3

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

Office Memorandum • UNITED STATES GOVERNMENT

TO : L/A - Mr. Cameron

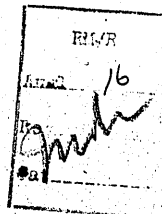
DATE: June 16, 1960

FROM : SPA - James D. Bell *JDB*

SUBJECT: Proper Designation for The Philippines

In passing, I note that in the Memorandum of Explanation of Short Form of Draft Consular Convention reference made to a consular convention concluded with "the Philippine Islands" (TIAS 1741). We do not make consular conventions with the Philippine Islands. Since July 4, 1946, we have maintained relations with "the Republic of the Philippines." In all official communications we think it proper to use the correct designation and to terminate the use of the phrase "Philippine Islands", which is understandably annoying to the Filipinos.

SPA:JDBell:geb

This Document must be Returned
to the RM/R Central Files

611.36421/6-1660 CS/MDR

611.96421/6-1660

0 0 8 7 4

DECLASSIFIED
Authority NND 949629
By *Lat* NARA Date 8/11/00



DEPARTMENT OF STATE INSTRUCTION

146
OFFICIAL USE ONLY
(Security Classification)

146

FOR RM/R USE ONLY

A-2, July 1, 1960

NO.:

SUBJECT: Negotiation of Consular Convention with Indonesia

TO: American Embassy, DJAKARTA

With reference to the Embassy's Operations Memorandum of May 9, 1960, the Department believes it would be desirable to conclude a consular convention with Indonesia and requests that, if the Embassy perceives no objection, the Embassy propose the commencement of negotiations with the Indonesian Government. Enclosed are six copies of a recently prepared draft consular convention and, for the Embassy's use, two copies of a memorandum of explanation of the convention. It is suggested that the Embassy submit to the Indonesian Ministry of Foreign Affairs three copies of this draft consular convention and propose that this draft be used as the basis of negotiations. The draft convention is dated March 1, 1960.

With respect to the last paragraph of the Embassy's Operations Memorandum of May 9, the Embassy should note that the draft convention (Article 14) provides that diplomatic officers and employees attached to the Embassy may enjoy the benefits of the convention, just as officers and employees of consular establishments, and without prejudice to such rights and benefits as they may have under international law.

Enclosures:

HERTER

1. Draft Consular Convention (6)
2. Memorandum of Explanation (2)

RM/R	✓
Anal	
Rev	
Dist	

5/5 CR
JUL 1
1960 P.M.

OFFICIAL USE ONLY
(Security Classification)DRAFTED BY: [Signature]
FE:SPA:RHW:el:reg 6-21-60APPROVED BY: [Signature]
FE - John M. SteevesCLEARANCES:
SPA - Mr. Bell [Signature]
L/FE - Mr. Cayer [Signature]
L/A - Mr. Cameron [Signature]L/T - Mr. Bevens
L - Mr. Raymond [Signature]

611.98421/7-160

CLASSIFIED FILE
LWS
611.98421/7-160

0 0 8 7 5

DECLASSIFIED
Authority NND 949629
By [Signature] NARA Date 8/11/00

Y2 2 46

INCOMING TELEGRAM *Department of State* **ACTION COPY**
PERMANENT RECORD COPY

40-48

Action
LFE

Info

FE

SCA

RMR

FROM: Djakarta

TO: Secretary of State

NO: 1651, December 8

UNCLASSIFIED

Classification

Control: 4064

DEC 15

Rec'd: December 7, 1960

9:49 p.m.

Request advice status exchange of notes per second paragraph Embassy OM September 16 re consular convention.

JONES

RJC

LEGAL ADVISER
DEC 8 1960
DEPARTMENT OF STATE

*To U/PR
Mr. Mitchell
for action
12/14/60
VVA*

611.98421/12-860

CAA

FILED
FEB 20 2 09 PM '61

• This copy must be returned to RMR Center files with notation **UNCLASSIFIED**
REPRODUCTION FROM THIS COPY IS PROHIBITED.

ACTION ASSIGNED TO: <i>RL</i>		ACTION TAKEN: <i>Copy memo Convention 1/16/61 sent Jakarta</i>	
NAME OF OFFICER & OFFICE SYMBOL: <i>Abraham</i>		DATE OF ACTION: <i>1/29/61</i>	DIRECTIONS TO RM/R: <i>File</i>

0 0 8 7 6

DECLASSIFIED
Authority **NND 949629**
By *pat* NARA Date **8/11/00**

FE:SPA:RSLindquist:lrj 3/7/61

(Drafting Office and Officer)

(133)

CONFIDENTIAL

611.98421/3-661

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: March 6, 1961

SUBJECT: Exchange of Notes Regarding Free Entry

PARTICIPANTS: Mr. Nugroho, Charge'd Affaires ad interim, Indonesian Embassy
Mr. James D. Bell, Director, Southwest Pacific Affairs
Mr. Robert S. Lindquist, Officer in Charge, Indonesian Affairs (SPA)

COPIES TO: FE - 2 (1 cc)
SPA - 3 (1 cc)
IRC - 8
U/PR - 1
L/FE - 1
L/T - 1

American Embassy, Djakarta - 1

18

MAR 1 8 1961

611.98421/3-661

① Mr. Nugroho referred to Mr. Bell's letter of September 23, 1960 which enclosed the draft of proposed Note to the Indonesian Embassy which, when replied to, will serve to clarify certain possible misunderstandings concerning reciprocal free entry. Mr. Nugroho said that he has now been authorized by the Foreign Department to proceed with the proposed exchange.

He said that, this step accomplished, the Foreign Department now is anxious to proceed with negotiation of a consular convention and the Embassy already has received negotiating instructions.

Mr. Nugroho referred to our previous expression of hope that the Foreign Department, pending signing of a Consular Convention, would be able to continue the exemption of local taxes on our Consulates at Medan and Surabaya. He said that the Foreign Department has indicated that such exemptions will be continued for a reasonable period. He implied that this should be incentive for us to negotiate a Consular Convention speedily, possibly accepting some Indonesian proposals for change in the standard agreement.

CONFIDENTIAL

FILED

MAR 13 1961

DECLASSIFIED
Authority NND 949629
By lat NARA Date 8/11/00

W I T H D R A W A L N O T I C E

RG: 059

TAB #: 1

ENTRY: CDF60-63

1 / 2 / C /

COPIES/PPS/CLASS/SPECMARK

BOX: 1322

ACCESS RESTRICTED

The item identified below has been withdrawn from this file:

Folder Title: 611.98421/3-661
Document Date: 30/06/61
Document Ser#: _____

TEL 755

FR PANAMA CITY

TO SEC STAT

In the review of this file this item was removed because access to it is restricted. Restrictions on records in the National Archives are stated in general and specific record group restriction statements which are available for examination. The item identified above has been withdrawn because it contains:

X Security-Classified Information
-

NND: 949629

WITHDRAWN: 02/09/95 by: RMH

FOIA RETRIEVAL #: 949629 01322 00001

0 0 8 7 8

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

OFFICE MEMORANDUM UNITED STATES GOVERNMENT

DATE: April 6, 1961

TO : ~~DOXX~~ RM/R

FROM : L/T

SUBJECT: Exchange of notes at Washington on March 23 and 31, 1961, with
INDONESIA, relating to duty-free entry privileges for diplomatic and consular
officers and personnel.

There are attached, for filing in ~~DOXX~~ ^{RM/R}, photostats of the
exchange of notes referred to above. As the notes constitute
an international agreement, the record copies are being re-
tained in L/T. At a later date they will be sent to the
National Archives for permanent filing among the treaty records.

File number: 611.98421/

L:L/T: RMBleezarde

Anal	11
Rev	
Cat	

611.98421/4-661

0 0 8 7 9

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

March 23, 1961

Sir:

I refer to conversations between representatives of the Government of the United States of America and representatives of the Government of the Republic of Indonesia on the subject of free entry privileges.

Pending the negotiation and conclusion of a consular convention between the United States and Indonesia, the Government of the United States of America proposes that, on a basis of reciprocity, all American and Indonesian diplomatic and consular officers of career and members of their families living with them, as well as employees of the sending state, specifically appointed or assigned by the sending state to serve in its respective diplomatic or consular offices, who are nationals of the sending state and not engaged in any other occupation for gain in the country of the receiving state, shall be extended free entry

The Honorable

Mr. Nugroho,

Chargé d'Affaires ad interim

of the Republic of Indonesia.

MDR

APR 13 1961

FILED

FILED 611-98441/4-661

0 0 0 0 0

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

privileges upon arrival to take up their duties and upon return from leave spent abroad, as well as the privilege of free importation of articles intended for their personal use at any time during official residence, provided the importation of such articles is not prohibited respectively by the laws of the United States and the Republic of Indonesia.

If the foregoing proposal is agreeable to the Government of the Republic of Indonesia, my Government will consider this note and your reply note concurring therein as concluding an agreement between our respective Governments, replacing such existing arrangements on this subject as may be in effect between the two Governments, such agreement to enter into force on the date of your reply note.

Accept, Sir, the renewed assurances of my high consideration.

For the Secretary of State:

John M. Steeves



Clearances:

L/T - Mrs. Bradford *RM*
L/A - Mr. Iyerly *RM*
L/FE - Mr. Czynak *RM*
U/PR - Mrs. Keating *RM*
SPA - Mr. Lindquist *RM*

RM
L:L/FE:CFSalans:mlb:3/20/61

KEDUTAAN BESAR INDONESIA
EMBASSY OF INDONESIA
WASHINGTON, D. C.



17
205
CHANCELLERY
2020 MASSACHUSETTS AVENUE, N.W.
TELEPHONE: HUDSON 3-0000

March 31, 1961

Sir:

I have the honor to refer to your note of March 23, 1961 and to conversations between representatives of the Government of the Republic of Indonesia and representatives of the Government of the United States of America on the subject of free entry privileges.

Pending the negotiation and conclusion of a consular convention between Indonesia and the United States of America, the Government of the Republic of Indonesia is prepared to conclude a specific agreement with the Government of the United States of America, by an exchange of notes, providing, on a basis of reciprocity, that all Indonesian and American diplomatic and consular officers of career and members of their families living with them, as well as

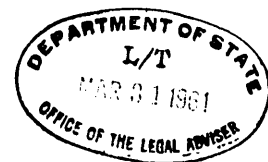
The Honorable

Dean Rusk

Secretary of State of the
United States of America

Washington, D. C.

employees



197-611-43421/4-661

0 0 1 1 2

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

of the sending state, specifically appointed or assigned by the sending state to serve in its respective diplomatic or consular offices, who are nationals of the sending state and not engaged in any other occupation for gain in the country of the receiving state, shall be extended free entry privileges upon arrival to take up their duties and upon return from leave spent abroad, as well as the privilege of free importation of articles intended for their personal use at any time during official residence, provided the importation of such articles is not prohibited respectively by the laws of the Republic of Indonesia and the United States of America.

The Government of the Republic of Indonesia agrees to the foregoing provision as a result of the conversations mentioned above, and will consider your note of March 23, 1961, and this note, concurring therein as concluding an agreement between our respective Governments, replacing such existing arrangements on this subject as may be in

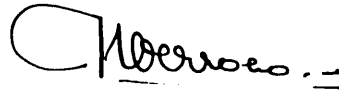
effect

0 0 1 1 3

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

effect between the two Governments, such agreement to enter
into force on the date of this note, March 31, 1961.

Please accept, Sir, the renewed assurances of
my most distinguished consideration.



Nugroho
Charge d'Affaires ad interim



83 DEPARTMENT OF STATE INSTRUCTION

UNCLASSIFIED

(Security Classification)

FOR RM/R USE ONLY

GA-8539

NO.:

April 6, 1961

FE-7
Info
RMR-7
L-3
U/PR-1
IVR-6
PER-3
DC/T-1
CIA-14

SUBJECT: Agreement Between the United States and Indonesia Relating to Free Entry Privileges.

TO: ~~Ambassador~~ Djakarta, Medan, Surabaya
~~Ameconsul Medan~~
~~Ameconsul Surabaya~~

The following are the texts of notes exchanged between the Department and the Indonesian Embassy which constitute an agreement between the United States Government and the Government of the Republic of Indonesia relating to free entry privileges for all Indonesian and American diplomatic and consular officers of career and members of their families living with them, as well as certain specified employees of the sending state. The agreement entered into force on March 31, 1961.

The Secretary of State to the Indonesian Charge d' Affaires ad interim.

The Department of State

March 23, 1961

Sir:

I refer to conversations between representatives of the Government of the United States of America and representatives of the Government of the Republic of Indonesia on the subject of free entry privileges.

Pending the negotiation and conclusion of a consular convention between the United States and Indonesia, the Government of the United States of America proposes that, on a basis of reciprocity, all American and Indonesian diplomatic and consular officers of career and members of their families living with them, as well as employees of the sending state, specifically appointed or assigned by the sending state to serve in its respective diplomatic or consular offices, who are nationals of the sending state and not engaged in any other occupation for gain in the country of the receiving state, shall be

extended

UNCLASSIFIED
(Security Classification)

DRAFTED BY: *MC*

FE:SPA:JALinehan Jr:rec 4-5-61

CLEARANCES: L/FE - C.F. Salans (in draft) *MC*
L/T - Mrs. Bradford (in draft) *MC*
U/PR - Mrs. Keating *MC*

APPROVED BY:

FE - James D. Bell *JDB*

S/S-CR *MC*

APR 6 1961/AM

611.98421/4-561

611.98421/4-661
LMS

DECLASSIFIED
Authority NND 949629
By *Lat* NARA Date 8/11/00

UNCLASSIFIED
(Security Classification)

extended free entry privileges upon arrival to take up their duties and upon return from leave spent abroad, as well as the privilege of free importation of articles intended for their personal use at any time during official residence, provided the importation of such articles is not prohibited respectively by the laws of the United States and the Republic of Indonesia.

If the foregoing proposal is agreeable to the Government of the Republic of Indonesia, my Government will consider this note and your reply note concurring therein as concluding an agreement between our respective Governments, replacing such existing arrangements on this subject as may be in effect between the two Governments, such agreement to enter into force on the date of your reply note.

Accept, Sir, the renewed assurances of my high consideration.

For the Secretary of State:

(signed) John M. Steeves

The Honorable
Mr. Nugroho,
Charge d' Affaires ad interim
of the Republic of Indonesia.

The Indonesian Charge d' Affaires to the Secretary of State.

Embassy of Indonesia
March 31, 1961

Sir:

I have the honor to refer to your note of March 23, 1961 and to conversations between representatives of the Government of the Republic of Indonesia and representatives of the Government of the United States of America on the subject of free entry privileges.

Pending the negotiation and conclusion of a consular convention between Indonesia and the United States of America, the Government of the Republic of Indonesia is prepared to conclude a specific agreement with the Government of the United States of America, by an exchange of notes, providing, on a basis of reciprocity, that all Indonesian and American diplomatic and consular officers of career and members of their families living with them, as well as employees of the sending state, specifically appointed or assigned by the sending state to serve in its respective diplomatic or consular offices, who are nationals of the sending

state

UNCLASSIFIED
(Security Classification)

0 0 8 8 6

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

NO. CA-8539. 4/6/61

PAGE 3

UNCLASSIFIED
(Security Classification)

[state and not engaged in any other occupation for gain in the country of the receiving state, shall be extended free entry privileges upon arrival to take up their duties and upon return from leave spent abroad, as well as the privilege of free importation of articles intended for their personal use at any time during official residence, provided the importation of such articles is not prohibited respectively by the laws of the Republic of Indonesia and the United States of America.]

The Government of the Republic of Indonesia agrees to the foregoing provision as a result of the conversations mentioned above, and will consider your note of March 23, 1961, and this note, concurring therein as concluding an agreement between our respective Governments, replacing such existing arrangements on this subject as may be in effect between the two Governments, such agreement to enter into force on the date of this note, March 31, 1961.

Please accept, Sir, the renewed assurances of my most distinguished consideration.

(signed) Nugroho
Charge d' Affaires ad interim

The Honorable
Dean Rusk,
Secretary of State of the
United States of America.

Washington, D.C.

RUSK

UNCLASSIFIED
(Security Classification)

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

1/26/62

to
RMR

file

AIDE-MEMOIRE

At the discussion held on December 6, 1961 between Mr. R. Abdul Karim Sumitro, Second Secretary of the Embassy of the Republic of Indonesia on the one side, and Messrs. Milton Mitchell, Francis E. Flaherty, John A. Linehan, Jr., and Leo J. Harris on behalf of the Department of State, the Aide-Memoire of the Embassy, dated August 18, 1961, concerning proposed changes in the draft consular convention previously presented to the Indonesian Government, was considered. The Department of State is pleased to note that there is a great area of agreement, and is confident that the few areas still under consideration may be rationalized in the near future. The Department would like to make the following observations as a basis for further discussions of the draft consular convention:

(1) With respect to the proposed change of the Government of Indonesia in Article 2, vis., the addition of the words "... subject to the laws of the receiving state ...", it would appear that this would effectively nullify the purpose of Article 2 (1) of the convention, which is to give the sending state the unqualified right to acquire, own, lease, or otherwise hold and occupy lands and buildings, irrespective of restrictive laws or regulations which the receiving state may, in general, impose upon foreign states or nationals. The Department of State firmly believes that Article 2 would have no substance if the right to own property is as absolute a tenure as is available to nationals of the receiving state could be unilaterally nullified by the domestic law of the receiving state. It is also noted that the

proposed

microfilmed by RM/R

②
1/30/62
L:LA w/PR L/T SCS FBO PER L/UNA L SPA L/ARA

proposed modification of this Article would enable the several states of the United States to make the acquisition by the Government of Indonesia of a fee simple or equal tenure in land subject to restrictions similar to those of the Indonesian Agrarian Law. It was never the intention of the United States Government in proposing Article 2 that the right of the receiving state to prescribe the laws and mechanisms for transfer, sale, recordation, and planned utilization of land (which details are not inherent in the right of ownership) be abrogated, since it always has been the intention of this Government to comply with such procedures abroad.

The proposed change is also inequitable since, for example, under the laws of the District of Columbia, the Government of Indonesia already has the right to own in fee simple its Chancery and Embassy residence. This is a fixed right not contingent on reciprocity and would ensure to the benefit of the Government of Indonesia even if it denied absolute ownership of real property in Indonesia to the United States Government. The right of foreign governments to own consular properties also exists in the great majority of the fifty states of the United States -- and this right usually continues irrespective of the laws of the foreign government concerned.

It is hoped that in the light of this discussion, the Government of Indonesia might reconsider and withdraw its proposed change.

(2) With respect to Article 3 (2), Mr. Sumitro expressed the view that the proposal by the Government of Indonesia for a requirement of vessel and aircraft registration in the sending state was based upon the desire that consular officers of the sending state should, in the performance of their official duties, utilize only aircraft or vessels registered in the sending or receiving

receiving state, thereby excluding the use of third country aircraft or vessels. The United States Government is not disposed to object to the substance of this proposal, if in times of emergency the charter, rental, or use of such third country vessels or aircraft could be assured. In this respect, it is proposed that a new paragraph 3 to Article 3 be added, in lieu of the Government of Indonesia proposal, as follows:

"(3) Vessels and aircraft used by consular officers of the sending state shall be registered or otherwise documented in the receiving or sending state, provided, however, that in times of emergency the consular officers of the sending state may utilize vessels or aircraft of any third country having diplomatic or consular relations with the receiving state."

The Department of State notes that the Government of Indonesia has proposed that the national flag may be flown at the residence, and on the vessels, vehicles, or aircraft of any consular officer, after due consultation with the local authorities of the receiving state. The Department is pleased to note Mr. Sumitro's assurance that this consultation process is not to be considered as obviating the right granted by Article 3 to fly the flag, but is merely a device to assure that the advice of the local authorities of the receiving state would be available as to the desirability of flying the national flag in certain emergency circumstances. It would be appreciated if the Government of Indonesia would confirm that the meaning of the word "consultation" is really intended to be used in the sense of merely obtaining advice, and not a condition upon the right to fly the flag in emergency situations.

The Department of State suggests that the article could be clarified

clarified by the addition after the words "after due consultation with the local authorities of the sending state" the following: "such consultation being for the purpose of seeking the current advice of the local authorities of the receiving state."

Mr. Sumitro noted that the omission of the words "and its consular flag" from paragraph 2 of Article 3 stems from a desire to avoid confusion in identifying the national flag. The United States consular flag has a blue background bearing the letter C in white in the center encircled by 13 white stars. It is for the use of the consular officer in charge of consular posts. It is always flown with the national flag, never separately.

(3) The Department of State would have no objection to the substance of the change proposed by the Government of Indonesia in Article 1 (2) and Article 11 (4) of the Convention, but would like to observe that consular employees do not customarily receive "recognition", either provisionally or by ensignatur. Accordingly, it is suggested that the proposed Article 1 (2), as suggested by the Aide Mémoire of August 18, 1961, be amended to read as follows:

"The relevant provisions of this Consular Convention shall apply as to consular officers and employees only when their names have been communicated to the appropriate authorities of the receiving state, and they have been duly recognized, or notified, as the case may be, in their respective capacities."

The present paragraphs (2) and (3) of the original draft would then become paragraphs (3) and (4), respectively.

(4) It is observed that the Government of Indonesia would substitute the words " . . . upon agreement by both parties . . ." for the words " . . . at the option of either party . . ." in Article 16. The United States firmly believes that disputed questions

questions of international law should be resolved by impartial international tribunals, and that the International Court of Justice, recognized as the most important of existing impartial international tribunals, is the appropriate tribunal for the resolution of such disputed questions. Rather than modify the intended policy of this Article, it is proposed that the entire Article 16 be deleted from the Convention.

(5) The Department of State sympathizes with the Government of Indonesia's desire to simplify the import of Article 17, but would like to make two observations with respect to the suggested change. While the United States Government exercises jurisdiction and control within the Panama Canal Zone, residual sovereignty over this area remains in the Republic of Panama. Since, under the suggested language of the Government of Indonesia, the status of the Panama Canal Zone might be unclear, and since historically the United States Government has generally excluded it from the territorial applicability of its treaties and other international agreements, it is proposed that this exemption be continued in this consular convention. In addition, the following words of Article 17, as suggested in the United States draft convention, "... subject to the sovereignty or authority of the High Contracting Parties ..." are words long associated, in United States practice, with effectively delimiting the territorial applicability of treaties or other international agreements. It may be difficult for the Department of State to achieve the ratification of the convention without them.

(6) The proposed change of the Government of Indonesia in Article 18 would appear to allow for a cancellation, once made, of the one year's written notice of termination under Article 18 (3). If this is the case, it is believed that the following language,

is

0 0 8 9 2

in lieu of that suggested by the Embassy, would be more satisfactory:

"Either High Contracting Party may, during the said one year period, by further notification in writing, inform the other of its decision to cancel the notice of termination."

As a matter of fact, it is common international practice to permit the withdrawal of a notice of termination, provided such notice is received by the other party prior to the date on which the termination would otherwise be effective. This has occurred in a number of instances, no question having been raised, so far as the Department of State is aware, concerning the effectiveness of the withdrawal of notice. Nevertheless, if the Government of Indonesia desires to include a sentence as quoted above, there is no objection thereto.

(7) Since the draft convention was given to the Government of Indonesia in early 1960, several minor modifications have been made in the draft by the Department of State. It is suggested that the following changes be made in the Indonesian copies of the draft convention:

- (a) Delete the words " . . . or upon the petition of heirs having the majority interest in such estate;" in Article 6 (2) (b).
- (b) The word "officers" in the second line of Article 9 (1) should be changed to read "office", and the word "telecommunications" in the eighth line of Article 9 (1) should be changed to read "communications".
- (c) The word "of" in the fourth line of Article 13 should be changed to read "or".

JAN 4 1962 PM 4:47

JAN 26 1962

Department of State,

Washington, January 26, 1962

L:L/A:LJE:ald 1/19/62

(clearances on following page)

Clearances:

U/FR - Mr. Mitchell *LHM - draft*
 L/T - Mr. Whittington *LHM - draft*
 SCS - Mr. Donaldson *see pg. 4*
 Mr. Flaherty *see pg. 4*
 FBO - Mr. Niccloy (para 1) *LHM - draft*
 PER - Mr. Peake (para 3) *LHM - draft*
 L/UNA - Mr. Washburn (para 4) *LHM - draft*
 L - Mr. Meeker (para 4) *LHM - substance*
 SPA - Mr. Linehan } *LHM - per attached memorandum*
 Mr. Lindquist } *and telephone call to*
 L/ARA - Mr. Neidle (para 5) *LHM - draft*

clarified by the addition after the words "after due consultation with the local authorities of the sending state" the following: "such consultation being for the purpose of seeking the current advice of the local authorities of the receiving state."

Mr. Sumitro noted that the omission of the words "and its consular flag" from paragraph 2 of Article 3 stems from a desire to avoid confusion in identifying the national flag. The United States consular flag has a blue background bearing the letter C in white in the center encircled by 13 white stars. It is for the use of the consular officer in charge of consular posts. It is always flown with the national flag, never separately.

(3) The Department of State would have no objection to the substance of the change proposed by the Government of Indonesia in Article 1 (2) and Article 11 (4) of the Convention, but would like to observe that consular employees do not customarily receive "recognition", either provisionally or by esequatur. Accordingly, it is suggested that the proposed Article 1 (2), as suggested by the Aide Mémoire of August 18, 1961, be amended to read as follows:

^{ea}
"The relevant provisions of this Consular Convention shall apply as to consular officers and employees only when their names have been communicated to the appropriate authorities of the receiving state, and they have been duly recognized or otherwise accepted, as appropriate, in their official capacity."

The present paragraphs (2) and (3) of the original draft would then become paragraphs (3) and (4), respectively.

(4) It is observed that the Government of Indonesia would substitute the words "... upon agreement by both parties ..." for the words "... at the option of either party ..." in Article 16. The United States firmly believes that disputed

questions

Original handed to Mr. Robert S. Lindquist, Officer in Charge of Indonesian Affairs, August 21, 1961, by Mr. A. K. Sumitro, Indonesian Embassy.

KEDUTAAN BESAR INDONESIA
EMBASSY OF INDONESIA
WASHINGTON, D. C.



CABLE ADDRESS: INDONESIA
CHANCERY
2020 MASSACHUSETTS AVENUE, N. W.
TELEPHONE HUDSON 3-0000

ACTION
is assigned to



file

RECEIVED
DEPARTMENT OF STATE

1961 AUG 22 PM 12 59

FM/R
CURRENT RECORDS
BRANCH

AIDE-MEMOIRE

Referring to the meeting at the Department of

State on August 9, 1961, between Mr. Milton Mitchell, Chief

of the Courtesies and Privileges Section and Mr. Robert

Lindquist, Officer in Charge of Indonesia Affairs on the one

side, and Mr. Abdul Karim Sumitro, Second Secretary of the

Embassy of the Republic of Indonesia on the other side, con-

cerning the drafting of a Consular Convention between Indonesia

and the United States of America, the Representative of the

Government of the Republic of Indonesia proposes the following

changes in the draft Consular Convention submitted by the

Department of State on July 20, 1960 to the Department of

Foreign Affairs in Djakarta:

- I. That under Article 1, Assignment, the following be inserted as paragraph (2):

"The relevant provisions of this Consular Convention shall apply as to consular officers and employees only when their names have been

communicated

LEGAL ADVISER
Replied by memo
AUG 23 1961
11/26/62 File
DEPARTMENT OF STATE
LH/WH/...

419830

*this language
taken verbatim
from Art 11 (4)
of the Convention*

DECLASSIFIED

Authority NND 949629
By *lat* NARA Date 8/11/00

communicated to the appropriate authorities of
the receiving state and they have been duly
recognized in their official capacity."

Paragraphs (2) and (3) in the present draft would then
become paragraphs (3) and (4) respectively.

*but para 2 would
be better if it were
para (1) and (2)*

II. That in Article 2, Lands and Buildings, paragraph (1)
should be amended to read:

"The sending state shall, subject to the laws of the
receiving state, have the right, in the territory of
the receiving state, to acquire, own, lease for any
period of time, or otherwise hold and occupy such
lands, buildings, and appurtenances as may be
necessary and appropriate for governmental pur-
poses, including residences for personnel attached
to diplomatic and consular establishments."

*No. This agreement
has been made as stated upon
us, and we would be
permitted to supply in kind.*

III. That paragraph (2) of Article 3, Inviolability of Offices
and Archives, should read as follows:

"The national flag of the sending state may be flown
at the consular office and at the residence of the
consular officer in charge of such office, or on any
vehicle, vessel, or aircraft used by him in the
performance of his official duties. Such vessels and
aircraft must be registered in the sending state.
The sending state may affix to the buildings in which
its consular offices are located signs bearing its
coat-of-arms and the designation of the office. In

omit the word "and" before "Archives"

*no. At present, yes
it is a matter?*

*top secret
classification*

times of

0 0 8 9 7

times of emergency the national flag of the sending state may be flown at the residence and on the vehicle, vessel, or aircraft of any consular officer of the sending state, after due consultation with the local authorities of the receiving state."

*no response at
27. Use
notification
to info
the authorities
where possible*

IV. That in Article 11, Customs Privileges, paragraph (4) should be amended to read:

"It is understood, however, that: (a) paragraph (3) of this Article shall apply as to consular officers and employees specified in Article 1, paragraph (2); (b) in the case of consignments, the receiving state may, as a condition to the granting of exemption, require that a notification of any such consignment be given in a prescribed manner; and (c) nothing herein authorizes importations specifically prohibited by law."

*to be amended as articulated
in paragraph 1, Article 11, this
document is a copy for Article 11*

V. That Article 16, Settlement of Disputes, should read as follows:

"Any dispute concerning the interpretation or application of the present Convention which is not settled by negotiation may be referred, upon agreement by both parties, to the International Court of Justice for decision, provided (1) that matters falling within the discretion of either party under the Convention shall not be subject

to the Court's

to the Court's

0 0 1 4 8

to the Court's jurisdiction, and (2) that neither party may refer a dispute to the Court until it has exhausted its legal remedies in the territory of the other Party, in the same manner as would a private person claiming rights, exemptions, and immunities under local laws and regulations."

VI. That Article 17, Territorial Application, should read as follows:

*West
Nad
Ghana
LIT*
*to be included
in the
territory to
be covered by
the Convention*
"The territories to which the provisions of this Convention shall apply shall be understood to comprise all areas of land and water belonging to the territory of each High Contracting Party."

VII. That under Article 18, Entry into Force, the following should be inserted as paragraph 4:

LIT
"Either High Contracting Party may, ^{deciding the said in agreement} by further notification in writing, inform the other of its decision to ^{terminate the Convention} modify the arrangements previously notified."

Washington, D.C.

August 18, 1961.

0 0 8 9 9

January 15, 1962.

Mr. Donaldson:

I have gone carefully through L/A's attached rough draft of an aide-memoire to the Indonesian Embassy.

The draft omits one of the points that came up in our Dec. 6 meeting with Mr. Sumitro, viz. that the proposed Indonesian amendment of Article 1 needs to be further revised, for the technical reason that "employees" do not receive "recognition", either provisional or by exequatur. We don't want to introduce a system of exequaturs for consular employees. I have brought this to L/A's attention, and they will work out something to correct the draft.

I have spoken to John Harris in L/A about Article 2, property tenure, because I think the language on that point can be improved. I would not like to see negotiations fall into a stalemate because of differences on Article 2. However, it is more a matter for FEO than for us.

Also, I have the feeling that L/A's rough draft is hard to follow, as one must constantly cross-check it with the draft convention. The aide-memoire could be much shorter if it merely enclosed a clean draft of the full convention, in language acceptable to our side. Retyping the full draft convention would be a considerable clerical job, but I think it would be worth while and that L/A should have staff support for it. Adequate administrative support is rather important in negotiating technical papers of these dimensions.

F.E.F.

done
no action here
if negotiations actually continue, this would be a good idea; but not at this time.

701 611 98421/5-1561

0 0 9 0 0

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

FORM DS-10 4-1-55		DEPARTMENT OF STATE REFERENCE SLIP		DATE Aug 21, 61	
TO:		NAME OR TITLE	ORGAN. SYMBOL	ROOM NO.	BLDG.
1.		RM/R			
2.					
3.					
4.					
5.					
APPROVAL		NOTE AND FORWARD			
AS REQUESTED		NOTE AND RETURN			
COMMENT		PER CONVERSATION			
FOR YOUR INFORMATION		PREPARE REPLY			
INITIAL FOR CLEARANCE		SEE ME			
NECESSARY ACTION		SIGNATURE			
REMARKS OR ADDITIONAL ROUTING					
<p>Attach & Aide-Memoire should go to LA - Mr. Cameron</p>					
FROM (NAME AND ORGANIZATION)				ROOM NO. AND BLDG.	
FE: SPA: RS Lindquist				5318	
SIGNATURE				PHONE NO.	
				3611	

0 0 9 0 1

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00

UNITED STATES GOVERNMENT

Memorandum

TO : L/A - Mr. Harris

DATE: January 4, 1962

JAN 5 1962

FROM : FE:SPA - Robert S. Lindquist

SUBJECT: Suggestions re Note to Indonesian Embassy on Consular Convention

1. Suggest that for purposes of clarity, US note refer to articles in order as does the incoming from the Indonesian Embassy.

2. Suggest adding the following at the end of the first paragraph on page 3 of the draft:

The Department of State suggests that the article may be clarified by the addition after the words "after due consultation with the local authorities of the sending state" of the following "such consultation being for the purpose of seeking the current advice of the local authorities of the receiving state".

3. Immediately following the above, suggest the addition of the following paragraph:

Mr. Sumitro noted that the omission of the words "and its consular flag" from paragraph 2 of Article 3 stems from a desire to avoid confusion in identifying the national flag. The consular flag has a blue background bearing the letter C in white in the center encircled by 13 white stars. It is for the use of the consular officer in charge of consular posts. It is always flown with the national flag, never separately.

①
1/30/62

FE:SPA:JALinehan, Jr.:eb:1/4/62

FILED
OCT 16 1962

72611.98421/8-1861

0 0 9 0 2

DECLASSIFIED
Authority NND 949629
By Lat NARA Date 8/11/00